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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------|------------------|
| 10/663,768 | 09/17/2003 | Uri Amin | 1348VAS-US | 3839 |
| 7590 Dekel Patent Ltd. Beit HaRofim Room 27 18 Menuha VeNahala Street Rehovot, ISRAEL | 02/22/2007 | | EXAMINER GANESAN, SUBA | |
| | | | ART UNIT 3738 | PAPER NUMBER |
| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE | | |
| 3 MONTHS | 02/22/2007 | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|--------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/663,768 | AMIN ET AL. | |
| | Examiner Suba Ganesan | Art Unit 3738 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 26 December 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-5 and 7 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-5,7 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .
5) Notice of Informal Patent Application
6) Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12/26/2006 have been fully considered but they are not persuasive. Applicant argues that Pappas fails to disclose a tooth to contact an inner surface of an elastomeric cover. It is the Examiner's position that Pappas does disclose a tooth protruding from a groove portion of the tongue and groove connection as illustrated and interpreted in the action below.

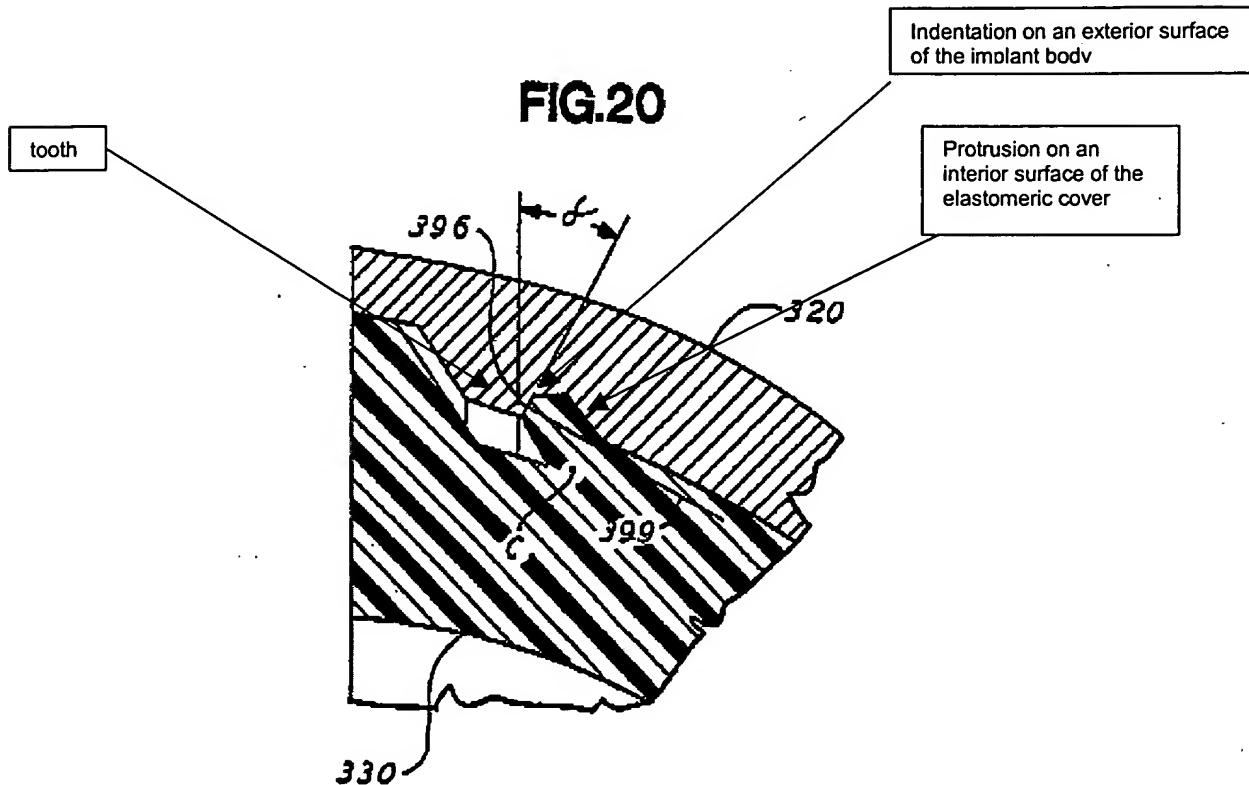
Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pappas (U.S. Pat. No. 4955919).

4. Pappas discloses an implant body 320 with an elastomeric cover 330. The implant body includes a tooth and a mechanical fastener comprising a tongue and groove connection. The tongue and groove connection comprises one indentation on an exterior surface of the implant body and at least one protrusion on an interior surface of the elastomeric cover. The indentation on the external surface of the implant body comprises an annular groove. The examiner is considering the tooth to be a ridge encircling a portion of the implant body. (see fig. 20 of Pappas, labeled below). The Examiner is considering the top surface of the implant body to be an inner surface

because that surface is positioned adjacent the body tissue. The examiner is interpreting the claimed elements "an elastomer" in this way: something that is plastic.



However, Pappas does not disclose the implant body having a ball shape. The disclosed implant is cup shaped, with the plastic liner (330) between the cup (320) and a complimentary ball-shaped implant. The placement of the plastic liner either on the cup or directly on the ball of a ball and socket implant is a matter of obvious design choice since either placement serves the function of enhancing flexibility of the articulation surface. Therefore it would have been obvious to one of ordinary skill in the

art to modify the plastic liner (330) to cover a ball-shaped implant with a tongue and groove fastening means.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suba Ganesan whose telephone number is 571-272-3243. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SDG 2/16/2007

BRIAN E. PELLEGRINO
PRIMARY EXAMINER

Brian E. Pellegrino